

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 21 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ERIC K. DANNENBERG,

Plaintiff - Appellant,

v.

R. CANDELARIA, Warden; et al.,

Defendants - Appellees.

No. 05-16229

D.C. No. CV-02-05295-REC/SMS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Robert E. Coyle, Senior Judge, Presiding

Argued April 18, 2007 Submitted September 13, 2007
San Francisco, California

Before: REINHARDT, NOONAN, and M. SMITH, Circuit Judges.

Eric K. Dannenberg, a California prisoner, was a transient inmate at Wasco State Prison's Reception Center ("Reception Center") from July 26, 2000 to November 21, 2000. He appeals the dismissal of his claim for the loss of personal

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

property and the grant of summary judgment to the warden on his claim for the Reception Center's failure to deliver periodicals to which he subscribed.

The parties are familiar with the facts. We proceed to the law. As to the loss of his property, it cannot be redressed under the Fourteenth Amendment if an adequate post-deprivation remedy exists. *Hudson v. Palmer*, 468 U.S. 517, 532-33 (1984). California provides such a remedy. *See Barnett v. Centoni*, 31 F.3d 813, 817 (9th Cir. 1994). Dannenberg's claim was properly dismissed for failure to state a cause of action.

As to his second claim, the right to receive subscription mail was established in this circuit in 2001. *Prison Legal News v. Cook*, 238 F.3d 1145, 1152-53 (9th Cir. 2001); *Morrison v. Cook*, 261 F.3d 896, 905 (9th Cir. 2001). Dannenberg's deprivation occurred before this date. It follows that the warden did not violate an established constitutional right and is therefore entitled to qualified immunity. *Saucier v. Katz*, 533 U.S. 194, 201 (2001).

For the reasons stated, the judgment of the district court is **AFFIRMED**.